

REMARKS:

Claims 1-51 and 53 are currently pending in the application.

Claim 52 is hereby canceled herewith, without *prejudice*.

Claim 52 stands rejected under 35 U.S.C. § 112, second paragraph.

Claims 1, 2, 10-12, 18-19, 27-29, 35-36, 44-46, and 52 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,996,589 to Jayaram et al. (hereinafter “*Jayaram*”) in view of U.S. Patent No. 7,149,746 to Fagin et al. (hereinafter “*Fagin*”) further in view of U.S. Patent 6,615,204 to Menon et al. (hereinafter “*Menon*”).

Claims 16-17, 33-34, 50-51, and 53 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of U.S. Patent Publication No. 2001/0008023 to Bond et al. (hereinafter “*Bond*”).

Claims 3, 20, and 37 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of U.S. Publication No. 2002/0046301 to Shannon et al. (hereinafter “*Shannon*”).

Claims 4-6, 8, 21-23, 25, 38-40 and 42 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of U.S. Patent No. 6,381,709 to Casagrande et al. (hereinafter “*Casagrande*”).

Claims 13-15, 30-32, and 47-49 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of U.S. Publication No. 2003/0233249 to Walsh et al. (“*Walsh*”).

Claims 7, 9, 24, 26, 41, and 43 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, *Menon* and *Casagrande* in view of *Walsh*.

Applicants respectfully submit that all of Applicants arguments are without *prejudice* or *disclaimer*. In addition, Applicants have merely discussed example distinctions from the cited prior art. Other distinctions may exist, and as such, Applicants reserve the right to discuss these additional distinctions in a future Response or on Appeal, if appropriate. Applicants further

respectfully submit that by not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are considered sufficient to overcome the Examiner's rejections.

I. Rejection Under 35 U.S.C. § 112

Claim 52 stands rejected under 35 U.S.C. § 112, second paragraph. Applicants respectfully disagree.

Nonetheless, Applicants have canceled herewith, without prejudice, Claim 52 in order to expedite prosecution of the subject application. Applicants respectfully submit that canceling Claim 52 renders moot the Examiner's rejection of Claim 52. Thus, Applicants respectfully request that the rejection of Claim 52 under 35 U.S.C. § 112 be withdrawn.

II. Rejections Under 35 U.S.C. § 103(a)

Claims 1, 2, 10-12, 18, 19, 27-29, 35, 36, 44-46, and 52 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Fagin* and *Menon*. Claims 16-17, 33-34, 50-51, and 53 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of *Bond*. Claims 3, 20, and 37, stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of *Shannon*. Claims 4-6, 21-23, 25, 38-40 and 42 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of *Casagrande*. Claims 13-15, 30-32, and 47-49 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, and *Menon* in view of *Walsh*. Claims 7, 9, 24, 26, 41, and 43 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*, *Fagin*, *Menon* and *Casagrande* in view of *Walsh*.

Applicants respectfully submit that Claims 1-53 in their current form contain unique and novel limitations that are not disclosed by *Jayaram*, *Fagin*, *Menon*, *Bond*, *Shannon*, *Casagrande* and *Walsh*, either individually or in combination. Thus, Applicant respectfully traverses the Examiner's obviousness rejection under 35 U.S.C. § 103(a) over the proposed combination of *Jayaram*, *Fagin*, *Menon*, *Bond*, *Shannon*, *Casagrande* and *Walsh*, either individually or in combination.

In rejecting Claim 1, the Examiner states the following:

Although Fagin teaches a plurality of relational interfaces used as alternatives to the plurality of programmatic source interfaces or the plurality of programmatic target interfaces, however, *Jayaram and Fagin do not teach providing interfaces based on file processing time and one or more performance requirements. Menon teaches providing interfaces based on file processing time and one or more performance requirements (col. 13, lines 46-62)*. (Emphasis added).

(6 October 2010 Non-Final Office Action, page 6). Applicants thank the Examiner for noting that *Jayaram and Fagin* fail to disclose “*a plurality of relational interfaces used as alternatives to the plurality of programmatic source interfaces or the plurality of programmatic target interfaces based on file processing time and one or more performance requirements,*” as required by Applicants’ Claim 1. However, Applicants respectfully disagree with the Examiner’s assertion that *Menon* provides the necessary disclosure. For further clarification, Applicants respectfully direct the Examiner’s attention to column 13, line 46 – column 14, line 2 of the specification of *Menon*, provided below for the Examiner’s convenience:

Similarly, other types of dialog boxes and other user interface components provided by the StudioLib 104, can provide a common 'look and feel' among diverse variety of asset management tools 102.

As stated, assets are logically stored in a Vault repository 108a, 108b, ... 108n. That is, as far as the user, and the asset management tools 102 are concerned, all assets are stored in one or more named Vault repositories 108 (described below). Thus, for the purposes of the present disclosure, an asset is said to be stored in the Vault repository 108 or more simply the Vault 108. However, *the actual physical location of assets (which are typically transparent to the user and the asset management tools 102), are provided by one or more asset storage servers 110*, as previously described.

In one embodiment, *the asset management server(s), 112 is (are) implemented using a DBMS for indexing and one of more files system volumes for the storage of the assets. The file system volumes can be located in various content servers which may reside in a single computer system or may be distributed among various content servers connected to the AMS 100, via a computer network or other connection (not shown).* The system administrative function of the present invention (described below) defines these parameters. (Emphasis added).

As shown above, Applicants respectfully submit that the portion of *Menon* relied on by the Examiner fails to disclose at least “*a plurality of relational interfaces used as alternatives to the plurality of programmatic source interfaces or the plurality of programmatic target interfaces based on file processing time and one or more performance requirements*,” as required by Claim 1. By contrast, the above-referenced portion of *Menon* merely discloses, among other things, user interface components having a common look and feel among different asset management tools. Additionally, *Menon* provides disclosure of asset storage servers using asset management tools as well as the indexing of files system volumes for asset storage on asset management servers. Applicants respectfully submit that the portion of *Menon* relied on by the Examiner provides no disclosure whatsoever of “*a plurality of relational interfaces used as alternatives to the plurality of programmatic source interfaces or the plurality of programmatic target interfaces based on file processing time and one or more performance requirements*,” as required by Claim 1.

More simply stated, a common look and feel among user interface components and the use of asset management tools and indexing of system volumes for asset storage is not analogous to using relational interfaces as alternatives to programmatic source or target interfaces *based on file processing time and one or more performance requirements* as claimed by Applicants. In fact, the disclosure of *Menon* relied on by the Examiner diverges so sharply from the claim elements the Examiner asserts are disclosed by the reference, Applicants respectfully request clarification from the Examiner as to how the Examiner has interpreted column 13, line 46 – column 14, line 2 of the specification of *Menon* to provide these claim limitations.

Thus, *Menon* is silent and therefore fails to disclose “*a plurality of relational interfaces used as alternatives to the plurality of programmatic source interfaces or the plurality of programmatic target interfaces based on file processing time and one or more performance requirements*,” as required by Claim 1. Similarly, *Jayaram*, *Bond*, *Shannon*, *Casagrande*, and *Walsh*, whether taken individually or in combination also fail to disclose at least this element of Claim 1. Furthermore, Applicants respectfully submit that there is no teaching or suggestion in any of the cited references to render obvious Applicants’ claims.

Accordingly, Applicants respectfully submit that Claims 1-51 and 53 are not rendered obvious by *Jayaram*, *Fagin*, *Menon*, *Bond*, *Shannon*, *Casagrande*, and *Walsh*, whether taken

individually or in combination and therefore respectfully request that the Examiner's rejections under 35 U.S.C. §103(a) be withdrawn.

III. The Office Action Fails to Properly Establish a *Prima Facie* case of Obvious over the Proposed Jayaram-Fagin-Menon-Bond-Shannon-Casagrande-Walsh Combination According to the UPSTO Examination Guidelines

Applicants respectfully submit that the Office Action fails to properly establish a *prima facie* case of obviousness based on the proposed combination of *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande*, and *Walsh*, either individually or in combination, and in particular, the Office Action fails to establish a *prima facie* case of obviousness based on the "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*." (the "Guidelines").

As reiterated by the Supreme Court in *KSR International Co. v. Teleflex Inc. (KSR)*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). Obviousness is a question of law based on underlying factual inquiries. These factual inquiries enunciated by the Court are as follows:

- (1) Determining the scope and content of the prior art;
- (2) Ascertaining the differences between the claimed invention and the prior art; and
- (3) Resolving the level of ordinary skill in the pertinent art.

(Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). Objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. (383 U.S. 17–18, 148 USPQ 467 (1966)). As stated by the Supreme Court in *KSR*, "While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls." (*KSR*, 550 U.S. at __, 82 USPQ2d at 1391).

However, it is important to note that the Guidelines require that Office personnel "*ensure that the written record includes findings of fact* concerning the state of the art and the teachings of the references applied. (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). In addition, the Guidelines remind Office personnel that the "*factual findings made by Office personnel are the necessary*

underpinnings to establish obviousness.” (*id.*). Further, “*Office personnel must provide an explanation to support an obviousness rejection* under 35 U.S.C. 103. (*id.*). In fact, “35 U.S.C. 132 requires that the applicant be notified of the reasons for the rejection of the claim so that he or she can decide how best to proceed” and “clearly setting forth findings of fact and the rationale(s) to support a rejection in an Office action leads to the prompt resolution of issues pertinent to patentability.” (*id.*).

With respect to the subject application, the Office Action has not shown the *factual findings necessary to establish obviousness* or even *an explanation to support the obviousness rejection* based on the proposed combination of *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, and Walsh*. The Office Action merely states that “it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use known technique of alternative relational interfaces of Fagin’s system to improve similar method of interfacing systems for data transfer in Jayaram’s system in the same way.” (6 October 2010 Non-Final Office Action, pages 5-6). Applicants respectfully disagree and respectfully submit that the Examiner’s conclusory statement is not sufficient to establish the *factual findings necessary to establish obviousness* and is not a sufficient *explanation to support the obviousness rejection* based on the proposed combination of *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, and Walsh*.

The Guidelines further provide guidance to Office personnel in “determining the scope and content of the prior art” such as, for example, “Office personnel must first obtain a thorough understanding of the invention disclosed and claimed in the application.” (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). The scope of the claimed invention must be clearly determined by giving the claims the “broadest reasonable interpretation consistent with the specification.” (See *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) and MPEP § 2111.). In addition, the Guidelines state that any “*obviousness rejection should include*, either explicitly or implicitly in view of the prior art applied, *an indication of the level of ordinary skill.*” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). With respect to the subject Application, the Office Action has not provided *an indication of the level of ordinary skill*.

The Guidelines still further provide that once the *Graham* factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of

ordinary skill in the art. (*Id.*). For example, the Guidelines state that *Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.* (*Id.*). In addition, the Guidelines state that the proper analysis is *whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts.* (*Id.* and See 35 U.S.C. 103(a)).

With respect to the subject Application, the Office Action has not expressly resolved any of the *Graham* factual inquiries to determine whether Applicants invention would have been obvious to one of ordinary skill in the art. In addition, the Office Action fails to *explain why the difference(s) between the proposed combination of Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, Walsh, and Applicants' claimed invention would have been obvious to one of ordinary skill in the art.* The Office Action merely states that “it would allow Jayaram’s system to provide alternative mappings for interfacing transferred data between the systems.” (6 October 2010 Non-Final Office Action, pages 5-6). Applicants respectfully disagree and further respectfully request clarification as to how this statement *explains why the difference(s) between the proposed combination of Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, Walsh, and Applicants' claimed invention would have been obvious to one of ordinary skill in the art.* Applicants further respectfully submit that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

The Guidelines yet further state that the “key to supporting any rejection under 35 U.S.C. 103 is the *clear articulation of the reason(s) why the claimed invention would have been obvious.*” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). In fact, the Supreme Court in *KSR* noted that “*the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.*” (*id.*). The Court quoting *In re Kahn* (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)), stated that ““[R]ejections on *obviousness cannot be sustained by mere conclusory statements;* instead, there *must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*”” (*KSR*, 550 U.S. at __, 82 USPQ2d at 1396). The Guidelines provide the following seven rationales:

- (A) Combining prior art elements according to known methods to yield predictable results;

- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “Obvious to try”—choosing from finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Applicants respectfully submit that the *Office Action fails to provide any articulation, let alone, clear articulation of the reasons why Applicants' claimed invention would have been obvious*. For example, the *Examiner has not adequately supported the selection and combination of Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, and Walsh to render obvious Applicants' claimed invention*. The Examiner's unsupported conclusory statements that “it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use known technique of alternative relational interfaces of Fagin's system to improve similar method of interfacing systems for data transfer in Jayaram's system in the same way,” and “to support ETL tool or any type of tools for the data stores,” and “it would allow Jayaram's system to provide alternative mappings for interfacing transferred data between the systems,” *do not adequately provide clear articulation of the reasons why Applicants' claimed invention would have been obvious*. (6 October 2010 Non-Final Office Action, pages 5-6). In addition, the Examiner's unsupported conclusory statement fails to meet any of the Guidelines rationales to render obvious Applicants claimed invention.

Thus, if the Examiner continues to maintain the obvious rejection based on the proposed combination of *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, and Walsh*, Applicants respectfully request that the Examiner provide proper support for the obviousness rejection under 35 U.S.C. 103 as necessitated by the Guidelines.

IV. Applicants' Claims are Patentable over Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, and Walsh, Taken Individually or in Combination

Applicants respectfully submit that as discussed above, Claims 1, 18, 35, and 53 are considered patentably distinguishable over *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, or Walsh*, taken individually or in combination. In addition, Applicants respectfully submit that Claim 53 is considered patentably distinguishable over *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, and Walsh* for at least the reasons discussed above in connection with Claims 1, 18, 35, and 53.

With respect to dependent Claims 2-17, 19-34, and 36-51: Claims 2-17 depend from Claim 1; Claims 19-34 depend from Claim 18; and Claims 36-51 depend from Claim 35 and are also considered patentably distinguishable over *Jayaram, Fagin, Menon, Bond, Shannon, Casagrande, or Walsh*, taken individually or in combination. Thus, dependent Claims 2-17, 19-34, and 36-51 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Director to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

6 January 2011
Date

/Steven J. Laureanti/signed
Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy., Ste. 101
Tempe AZ, 85281
214.636.0799 (mobile)
480.830.2700 (office)
480.830.2717 (fax)
steven@boothudall.com

CUSTOMER NO. 53184